UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

PAMELA DENISE PRINGLE,

Plaintiff,

v.

AMANDA GENTRY, et al.,

Defendants.

No. 2:17-cv-02206 TLN AC PS

ORDER

Plaintiff is proceeding in this case in pro se. The proceeding has accordingly been referred to the magistrate judge by E.D. Cal. R. ("Local Rule") 302(c)(21). On March 14, 2018, plaintiff filed an Ex Parte Motion to Vacate the hearing set before the undersigned on March 28, 2018 on defendant's Motion to Dismiss for Lack of Jurisdiction (ECF No. 12). ECF No. 19. Plaintiff's motion is DENIED.

Plaintiff argues that the Magistrate Judge cannot hear defendant's motion to dismiss because plaintiff is not a prisoner and she did not consent to magistrate judge jurisdiction. ECF No. 19 at 2-3. This is incorrect; Local Rule 302(c)(21) states that the magistrate judge shall hear all dispositive and non-dispositive matters when a party is representing herself (appearing in pro se). Federal Rule of Civil Procedure 72(b)(1) explains that, without consent from the parties, a magistrate judge may hear a "dispositive motion" and submit findings and recommendations to the district judge for a final ruling. A motion to dismiss is a dispositive motion. Accordingly, the

magistrate judge will conduct the hearing and initially evaluate the merits of the motion, but – because the parties have not consented to the magistrate judge serving as presiding judge for the case – the assigned U.S. District Judge will make the ultimate decision whether to adopt the magistrate judge's recommendation. See 28 U.S.C. § 636(b)(1)(B).

Defendant's motion to dismiss is properly noticed for hearing before the magistrate judge. The hearing will go forward on March 28, 2018 before the magistrate judge. At the hearing, the undersigned will further discuss the respective roles of the magistrate judge and district judge.

It is hereby ordered that plaintiff's motion to vacate (ECF No. 19) is DENIED.

DATED: March 15, 2018

Allison Claire

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE